



**The Idaho Organization of Resource Councils**

910 Main Street, Suite #244, Boise, ID 83702

Phone: 208.991.4451

Email: [admin@IORCinfo.org](mailto:admin@IORCinfo.org)

Website: [www.IORCinfo.org](http://www.IORCinfo.org)

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May 19, 2016

Eric Wilson  
Resource Protection and Assistance Bureau Chief  
Idaho Department of Lands  
300 N. 6th Street, Suite 103  
Boise, ID 83702

Dear Mr. Wilson:

Thank you for the opportunity to participate in the negotiated rulemaking for IDAPA 20.07.02 Rules Governing Conservation of Oil and Natural Gas in the State of Idaho, Docket No. 20-0702-1601. We appreciate the work you have already done to modernize Idaho's oil and gas regulations. We look forward to working with the Idaho Department of Lands to improve protections for Idaho's people, air, land, and water.

The Idaho Organization of Resource Councils (IORC) is a 501(c)(3) tax exempt nonprofit organization based in Boise, Idaho. IORC has two local chapters representing members in Washington, Payette, and Bannock Counties. Its mission is to protect Idaho's way of life by empowering citizens to improve the economic well-being of their local communities by preserving family farms and ranches; supporting local, sustainable agriculture; developing small businesses and clean energy; and being responsible stewards of Idaho's water, land, air, and natural resources.

Please accept the following comments regarding IDAPA 20.07.02, Docket No. 20-0702-1601:

1. **Suggest definition of "occupied structure," and use of consistent language.**
  - a. "Occupied structure" means any building, vehicle, or other place suitable for human occupancy, overnight lodging of persons, business, or employment whether or not a person is actually present. Each unit of a building consisting of two or more units separately secured or occupied is a separate occupied structure. Examples of occupied structures include but are not limited to homes, mobile homes, businesses, places of worship, schools, hospitals, nursing homes, rental properties, and temporary housing.
  - b. Replace references to "residence" with "occupied structure" in sections 100.02.b and 100.02.c to create consistency in sections regulating setbacks for oil and gas wells, associated infrastructure, and seismic operations.
2. **Require notification for variances from owners *and* tenants of occupied structures who rent or lease property from an owner.**
  - a. The individuals who occupy or utilize a property often do not own that property however should have rights to use and enjoyment of the property under lease. Notification of oil and gas activities on or near their property should be a minimum requirement.

**Comments re: IDAPA 20.07.02 Rules Governing Conservation of Oil and Natural Gas in the State of Idaho, Docket No. 20-0702-1601**



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3. **Clarify definition of “workover” to ensure it does not include any actions that would otherwise require a permit, such as well treatment or recompletion. Section 101.65.**
  4. **Provide clarity for members of the public or affected parties regarding section 040 and Idaho Code 47.320.**
    - a. The simple fact is the process in Idaho Code 47.320 is not clear and presents a challenge to individuals attempting to understand the process as described in statute. There are areas of administrative discretion that could be clarified in rule such as when the permit would be posted online for public comment or submitted to Idaho Department of Water Resources (IDWR) relative to when IDL receives the permit or makes a determination of completeness.
    - b. Publish online IDWR comments and recommendations.
    - c. Include relevant dates and deadlines for public comments posted online.
  5. **Improve surface owner protections in section 110.**
    - a. Broaden scope of surface use agreements in sections 110.01 and 110.02 to include any lost income or lost property value. Remove or modify language referencing “lost agricultural income and lost value of improvements” to reflect all possible lost income or lost property value.
    - b. Increase minimum surface use bond to \$10,000 to better protect property owners and make consistent with seismic bond amount.
    - c. Allow for a hearing to determine surface bond amount in cases where there is a dispute. Replace language in section 110.05 to read “When the owner, operator, or surface owner objects to the Department’s proposed surface use bond, a hearing will be scheduled to determine the final bond amount.”
    - d. Remove reference to Idaho Code section 47.324(c) which is specific to mineral right owners, not surface right owners, OR
    - e. Provide clarity for rights of surface owners for appeal to the Idaho Oil and Gas Commission under section 110.05 and Idaho Code section 47.324. Idaho Code 47.324(d) limits appeals to “the applicant or any owner who filed an objection or other response to the application within the time required.” Idaho Code 47.317 restricts the definition of “owner” to mean the mineral right owner.

Thank you again for the opportunity to provide comments for this rulemaking. If you have any questions please feel free to contact me at 208-991-4451.

Sincerely,  
Doug Paddock  
Field Organizer, IORC

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